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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/502,285	02/11/2000	Sheldon F. Goldberg	3367-2-2	4950

22442 7590 09/09/2003

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EXAMINER
WHITE, CARMEN D

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 09/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

NY

Office Action Summary	Application No.	Applicant(s)
	09/502,285	GOLDBERG ET AL.
	Examiner Carmen D. White	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 May 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 98-172 and 174-205 is/are pending in the application.
- 4a) Of the above claim(s) 101-103 is/are withdrawn from consideration.
- 5) Claim(s) 98-100, 104-114 and 201 is/are allowed.
- 6) Claim(s) 115-172, 174-200 and 202-205 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____ .
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>24 & 25</u> . | 6) <input type="checkbox"/> Other: _____ . |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 22, 2003 has been entered.

Claim Objections

Claims 174-205 are objected to because of the following informalities: the claims are misnumbered. Applicant skipped claim #173. For purposes of this office action, claim 173 will be skipped as well, for clarity. Therefore, the examiner will refer to the claims as they are currently numbered. ***Appropriate correction is required.***

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 164-165 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 9 of the claims recites "substantially electronic game". This language is not clear and makes it difficult to determine the scope of the claim. How could the game be played over a network if it is "substantially electronic"?

Claims 196-200 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Step (c) of the claims recites "there is not input by the user, for which a display of the second advertising information at the user node is a consequence and a display of said first advertising information is not a consequence". This language is confusing and makes it difficult to ascertain the scope of the claim. It appears that the Applicant is attempting to state that the first and second advertising information is not in response to user input- however, the claim language is not quite clear.

Claims 115-165 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Lines 33-35 of the claims recite "without there being a user input to the user node that has, as a consequence, the display of the second advertising presentation and not the first advertising presentation". This language is confusing and makes it difficult to ascertain the scope of the claim. It appears that the Applicant is attempting to state that the first and second advertising information is not in response to user input- however, the claim language is not quite clear.

Claims 166-172 , 174-200 and 202-205 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 166-172 , 174-200 and 202-205 recite similar language in step (c){of both independent claims 196 and 166} which is indefinite for the reasons of the claims above.

Allowable Subject Matter

Claims 98-100, 104-114, 201 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The claims recite features of first, second, and additional advertising presentations that are not taught, in the same detail, by the prior art of record.

Conclusion

This is an RCE of applicant's earlier Application No. 09/502,285 All claims are drawn to the same invention claimed in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in the case of the RCE. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

USPTO Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for Non-official communications and 703-305-3579 for Official communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.


cdw


S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700